

APPEAL NO. 041764
FILED SEPTEMBER 7, 2004

This case returns following our remand in Texas Workers' Compensation Commission Appeal No. 040957, decided June 15, 2004, for reconstruction of the record because the audiotape of the hearing was inaudible. A hearing on remand was held on July 6, 2004, where the parties agreed to reconstruct the respondent's (claimant) testimony based on the notes the hearing officer took at the original March 24, 2004, hearing. Following the hearing on remand, the hearing officer reissued his decision where he determined that the claimant's compensable injury of _____, extends to and includes an injury to the cervical spine diagnosed as a C5-6 disc herniation. In its appeal, the appellant (carrier) challenges that determination as being against the great weight of the evidence. The appeal file does not contain a response to the carrier's appeal from the claimant.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury of _____, includes a C5-6 disc herniation. That issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In this instance, the hearing officer was persuaded that the claimant sustained his burden of proving that his compensable injury included a disc herniation at C5-6. The hearing officer was acting within his province as the fact finder in deciding to give more weight to the evidence tending to demonstrate the causal connection between the claimant's _____, injury and the cervical herniated disc. Nothing in our review of the record reveals that the challenged determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TRINITY UNIVERSAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RONALD I. HENRY
10000 NORTH CENTRAL EXPRESSWAY
DALLAS, TEXAS 75230.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Veronica L. Ruberto
Appeals Judge